



## EXHIBIT 9

### MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 North Robert Street  
Saint Paul, Minnesota 55101

Mailing Address:  
P.O. Box 64620  
St. Paul, Minnesota 55164-0620

July 2, 2012

Voice: (651) 361-7900  
TTY: (651) 361-7878  
Fax: (651) 361-7936

Nathan Cooley  
Rules Coordinator  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, MN 55155

RE: Request for Authorization to Omit the Text of the Proposed Rules  
From the Publication of the Dual Notice of Intent to Adopt Rules  
Governing Air Emissions Permits, Minnesota Rules Chapters 7005, 7007  
– Green Gas Permitting Rules, and 7011, Pursuant to Minn. Stat. § 14.14

OAH Docket No. 16-2200-22910-1; Governor's Tracking No. AR 1015.

Dear Mr. Cooley:

I have reviewed the request of the Pollution Control Agency (Agency), pursuant to Minn. Stat. § 14.14 (b), to omit the text of the above-entitled proposed rules from the publication of the Dual Notice of Intent to Adopt Rules in the *State Register* on the grounds that publication of the text would be unduly expensive and unnecessary.

The Agency indicates that publication of the proposed rules would cost the Agency approximately \$5,500. The Agency indicates that there are few permit-holders to whom these rules will apply.

The Agency indicates that it will post the proposed rules in their entirety on its Agency website and will provide a free copy of the entire rule upon request, in either a print or electronic version. In addition, the Dual Notice states in detail the specific subject matter of the omitted rules, cites the statutory authority for the proposed rules, and details the proposed rules purpose and motivation.

In the interest of maximizing transparency and convenience for those members of the public who wish to review the proposed rules on seeing the Dual Notice in the *State Register*, and insuring continued access to the rules as originally proposed throughout the rulemaking process, **the Chief Administrative Law Judge will approve the Agency's request on the following conditions:**

July 2, 2012  
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- a) the Agency will include in the electronic version of its Dual Notice of Intent to Adopt Rules an embedded link directly to the proposed rules on the Agency's website; and
- b) the Agency will maintain the link, or an automatic re-direct of the link, to the proposed rules on the Agency's website for 30 days following publication of the Agency's final Notice of Adoption of the rules upon completion of the rulemaking process.

Contingent upon the Agency's agreement to comply with the conditions set forth in this letter, the Agency is authorized to omit the text of its proposed rules from publication of its Notice of Intent to Adopt Rules in the *State Register*, pursuant to Minn. Stat. § 14.14 (b). If you have any questions, please contact Mary Osborn at (651) 361-7876.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond R. Krause", followed by a horizontal line and the word "For" written in a cursive script.

RAYMOND R. KRAUSE  
Chief Administrative Law Judge

Telephone: (651) 361-7900

RRK:mo

June 25, 2012

*Hand delivered*

The Honorable Raymond R. Krause  
Chief Administrative Law Judge  
Office of Administrative Hearings  
600 North Robert Street  
P.O. Box 64620  
Saint Paul, Minnesota 55164-0620

Re: In the Matter of the Proposed Rules of the Minnesota Pollution Control Agency (Agency) Governing Permits for Greenhouse Gas Emissions, Emissions from Stationary Spark-ignition Engines, and Clarification of Who Must Obtain Air Permits; Request to Schedule a Rules Hearing and Request to Review Additional Notice Plan; and Request Approval of Additional Notice Plan  
OAH Docket No. [ ];  
Revisor's Draft Number RD4064;  
Governor's Tracking Number AR 1015

Dear Chief Judge Krause:

The Agency requests that you please schedule a rules hearing under Minnesota Statutes, sections 14.131 to 14.20, and assign an Administrative Law Judge. The hearing is about the Agency's proposed rules to permit greenhouse gas emissions and emissions from stationary spark-ignition engines and to clarify who must obtain an air permit. I request that the judge conduct the hearing on Thursday, August 30, 2012, beginning at 2:00 pm, at the first-floor conference room at the Agency's main office located at 520 Lafayette Road, St. Paul, Minnesota 55155.

Enclosed are the documents for the Administrative Law Judge's review, as required by Minnesota Rules, part 1400.2080, subpart 5:

- 1) The draft Dual Notice of Hearing proposed to be issued. If the Agency receives fewer than 25 requests for a hearing in response to the Dual Notice, the hearing will be canceled. I will notify you if this occurs.
- 2) A copy of the proposed rules, with a certificate of approval as to form by the Revisor of Statutes attached.
- 3) A draft of the Statement of Need and Reasonableness.

The Agency also requests that you approve our Additional Notice Plan. The documents required for your review by Minnesota Rules, part 1400.2060, include the three documents listed above for requesting a rules hearing. We are also providing you below with our explanation of why we believe our Additional Notice Plan reflects reasonable efforts to notify persons or classes of persons who might be significantly affected by the rules in accordance with Minnesota Statutes, section 14.14, subdivision 1a.

The Agency's Additional Notice Plan is described on pages 14 and 15 of the Statement of Need and Reasonableness. The Agency believes that its Additional Notice Plan complies with the statute because the Agency uses a new self-subscribing notification system that currently hosts nearly 50

times as many interested parties as the Agency's old "M-List" of people registered with the Agency for U.S. Mail notice (14,550 vs. 300 under old system).

Would you also please evaluate whether I might meet the conditions allowed under Minn. Stat. section 14.14, paragraph 1a, item (b) below, by promising to post the entire rule on my Agency's Web page and to make it available upon request, in order to save the cost of publishing about 54 pages in the State Register at a cost of some \$5,500:

"Minn. Stat. section 14.14, paragraph 1a:

[...]

(b). The chief administrative law judge may authorize an agency to omit from the notice of rule hearing the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

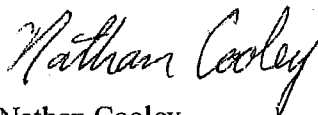
(2) the notice of rule hearing states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of rule hearing states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

There are relatively few potential permittees to whom these rules will apply. The Agency will provide copies on request. The notice provides the subject of the rules, the statutory authority for the rules, and the purpose and motivation for these rules.

Please call me at 695-757-2290 if you have any questions.

Yours very truly,



Nathan Cooley  
Rules Coordinator  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, MN 55155



## MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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Fax: (651) 361-7936

July 2, 2012

Nathan Cooley  
Rules Coordinator  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, MN 55155

RE: In the Matter of the Proposed Amendments of the Minnesota Pollution Control Agency to the Rules Governing Air Emissions Permits, Minnesota Rules Chapters 7005, 7007 – Green Gas Permitting Rules, and 7011; Request for Review and Approval of Additional Notice Plan.

OAH Docket No. 16-2200-22910-1; Governor's Tracking No. AR 1015.

Dear Mr. Cooley:

I have reviewed the Dual Notice and Additional Notice Plan that was received from you on June 25, 2012. You asked OAH to determine whether these items meet the requirements of Minnesota law. Both the Dual Notice and Additional Notice Plan are approved, subject to the correct spelling of my first name, "Manuel".

You also requested that the Agency be authorized to omit the 54 pages of text of the proposed rule from the notice of rule hearing, pursuant to Minn. Stat. § 14.14 (b). That request will be the subject of a separate Order from the Chief Judge.

If you have any questions regarding this matter, please feel free to telephone me at (651) 361-7945.

Sincerely,

A handwritten signature in black ink, appearing to read "Manuel J. Cervantes", is written over a horizontal line.

MANUEL J. CERVANTES  
Administrative Law Judge

# EXHIBIT 10

## Minnesota Pollution Control Agency


### CERTIFICATE OF SENDING THE NOTICE AND THE STATEMENT OF NEED AND REASONABLENESS TO LEGISLATORS

**Dual Notice: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received**

**Proposed Amendment to Agency Rules Implementing Permanent Federal Air Permit Threshold Regulatory Relief for Greenhouse Gases (GHGs), and Clarifying when Permits Apply to Owners & Operators, *Minnesota Rules*, chs. 7005 Definitions and Abbreviations, 7007 Permits and Offsets, and 7011 Standards For Stationary Sources (parts 7005.0100, 7007.0050, 7007.0100, 7007.0150, 7007.0200, 7007.0250, 7007.0300, 7007.0325, 7007.0350, 7007.0400, 7007.0500, 7007.0750, 7007.0800, 7007.0950, 7007.1050, 7007.1100, 7007.1105, 7007.1107, 7007.1110, 7007.1115, 7007.1120, 7007.1125, 7007.1130, 7007.1140, 7007.1141, 7007.1142, 7007.1145, 7007.1146, 7007.1150, 7007.1300, 7007.1400, 7007.1450, 7007.1500, 7007.1850, 7011.2305, 7011.2310 and possibly related parts)**

I certify that on July 6, 2012, when the Agency mailed Notice of Intent to Adopt Rules under Minnesota Statutes, section 14.14 or 14.22, I sent a copy of the Notice and the Statement of Need and Reasonableness, the Dual Notice and the Proposed Rules to certain Legislators by either depositing them in the State of Minnesota's central mail system for United States mail with postage prepaid or interoffice mail of the State of Minnesota or by sending an electronic copy via e-mail. I mailed these documents to comply with Minnesota Statutes, section 14.116. A copy of the cover letter is attached to this Certificate. Your cover letter should list the Legislators contacted but if it does not, attach a list of the Legislators to the copy.

I sent to the legislators a copy of the Universal Resource Locator (URL) for the Agency's Public Notices Web page that contained the above documents. I also provided a contact phone number in case any had questions.

  
Nathan Brooks Cooley  
Rules Coordinator



## Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300  
800-657-3864 | 651-282-5332 TTY | [www.pca.state.mn.us](http://www.pca.state.mn.us) | Equal Opportunity Employer

July 6, 2012

Senator Bill Ingebrigtsen, Chair  
Senate Environment and Natural Resources Committee  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
Capitol Building, Room 303  
St. Paul, MN 55155-1606

Senator Linda Higgins, Ranking Minority Member  
Senate Environment and Natural Resources Committee  
1715 Emerson Avenue North  
Minneapolis, MN 55411

Senator Claire A. Robling, Chair  
Senate Finance Committee:  
1169 Butterfly Lane  
Jordan, MN 55352

Senator Richard J. Cohen, Ranking Minority Member  
Senate Finance Committee:  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
State Office Building, Room 109  
St. Paul, MN 55155-1206

Representative Denny McNamara, Chair  
House Environment, Energy and Natural Resources Policy and Finance Committee  
1368 Featherstone Court  
Hastings, MN 55033

Representative Jean Wagenius, Ranking DFL Lead  
House Environment, Energy and Natural Resources Policy and Finance Committee  
251 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Re: Proposed Amendments to Minnesota Pollution Control Agency (Agency) Rules Making Permanent Federal Air Emission Regulatory Relief for Greenhouse Gases and Stationary Spark Ignition Engines, and Clarifying when Permits Apply to Owners & Operators, *Minnesota Rules*, chs. 7005 Definitions and Abbreviations, 7007 Permits and Offsets, and 7011 Standards for Stationary Sources; Governor's Tracking #AR 1015

Dear Legislators:

The Minnesota Pollution Control Agency (Agency) intends to make permanent federal air permit threshold regulatory relief for greenhouse gases and stationary spark ignition engines and to clarify when permits apply to owners and operators.

The Agency's permitting program is tied to the federal program. The greenhouse gas permit threshold limits were adopted in good cause exempt temporary rules in January 2011.

Minnesota Statutes, section 14.116, states:

*"14.116 NOTICE TO LEGISLATURE. When an agency mails notice of intent to adopt rules under section 14.14 or 14.22, the agency must send a copy of the same notice and a copy of the statement of need and reasonableness to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules.*

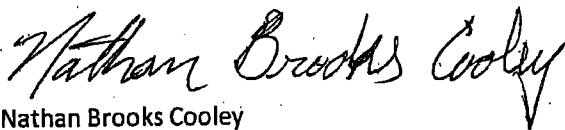
*In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency shall make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency shall make reasonable efforts to send the notice and the statement to the chief house and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill."*

The authority to adopt these rules was granted more than two years ago. The Agency is publishing a Dual Notice of Intent to Adopt Rules with or without a hearing in the July 9, 2012, *State Register* and is now mailing the Notice under section 14.14 or 14.22. The Notice proposes adopting these rules without a hearing unless the Agency receives 25 or more hearing requests.

As required by section 14.116, the Agency is providing the Dual Notice, the Statement of Need and Reasonableness and the Proposed Rules. These documents may be found at the following Universal Resource Locator (URL) address on the Agency's Public Notices/All Notices webpage during the notice period from July 9 to August 10, 2012 (or later archives): <http://www.pca.state.mn.us/index.php/about-mpca/mpca-news/public-notices/public-notices.html>

If you have any questions about these rules, please contact me at 651-757-2290.

Sincerely,



Nathan Brooks Cooley  
Rule Coordinator  
SSTS, Land Treatment, and Rules Section  
Municipal Division

NC/wpg





## Office Memorandum

**Date:** August 21, 2012

**To:** John Stine, Commissioner

**From:** Michelle Mitchell  
Executive Budget Officer

**Phone:** 651-201-8025

**Subject:** M.S. 14.131 Review of Proposed Amendment of Rules Governing Air Emissions Permits for Greenhouse Gas

The Minnesota Pollution Control Agency (MPCA) proposes to permanently amend Minnesota Rules Chapters 7007, 7005, and 7011 governing air emission permits for greenhouse gases (GHGs) to align them with federal rules under the Clean Air Act. These rule changes were temporarily adopted in January of 2011. Pursuant to M.S. 14.131, PCA has asked the Commissioner of Minnesota Management and Budget (MMB) to help evaluate the fiscal impact and fiscal benefit of the proposed rule changes on local units of government.

### Evaluation

On behalf of the Commissioner of MMB, I reviewed the proposed rule changes and the related Statement of Need and Reasonableness (SONAR) and consulted with agency staff to determine the fiscal impact of the rule changes as proposed. Some cities are air permit holders, and therefore have the potential to be impacted by the proposed rule changes. However, based on my review, I believe the proposed rule changes will have minimal fiscal impact on local units of government. My evaluation is summarized below:

- These rule changes were temporarily enacted in January 2011 and released for public comment. MPCA did not receive comments or feedback on the rule changes from local governments.
- Large cities that are air permit holders already have air permits that are inclusive of the proposed rule changes; no additional permits are required. The only impact these rule changes would have on large cities is that they now must report on their greenhouse gas emissions (or energy use as a proxy for greenhouse gas emissions) as part of their existing permits. This impact is expected to be minimal.
- If the proposed rule changes are not adopted, many small entities, including residences, schools, and local governments, would need an operating permit that previously did not.

Based on this information I believe that PCA has adequately analyzed and presented the potential costs and benefits of the proposed rule changes and that the changes will have minimal fiscal impact on local units of government.

cc: Carol Nankivel, Pollution Control Agency  
Nathan Cooley, Pollution Control Agency  
Mike Roelofs, Minnesota Management and Budget



## Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | [www.pca.state.mn.us](http://www.pca.state.mn.us) | Equal Opportunity Employer

May 25, 2012

Ms. Katherine Barondeau  
Executive Budget Officer  
Minnesota Management and Budget  
658 Cedar St., Suite 400  
St. Paul, MN 55155

RE: Proposed Amendments to Minnesota Pollution Control Agency Rules Governing Air Emissions  
Permits for Greenhouse Gas ("Tailoring" Rule); Minnesota Rules Chapters 7007, 7005, and 7011;  
Governor's Tracking #AR 1015; Revisor's Tracking #RD 4064

Dear Ms. Barondeau:

Minnesota Statutes, section 14.131, requires that an agency engaged in rulemaking consult with the Commissioner of Minnesota Management and Budget, "to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government." I am directing this to your attention as you have responded to this request on behalf of your agency in prior rulemakings.

Enclosed for your review are copies of the following documents:

1. The Governor's Office Proposed Rule and SONAR Form
2. The March 22, 2012, Revisor's draft of the proposed rule
3. The April 2012, (unsigned) draft of the SONAR

I am also delivering copies of these documents to the Governor's Office for permission to publish a notice of intent to propose these rules.

If you or any other representative of the Commissioner of Minnesota Management and Budget has questions about the proposed rules, please call me at 651-757-2290, or Barbara Conti at 651-757-2288. Please send any correspondence about this matter to me at the following address: Nathan Cooley, Minnesota Pollution Control Agency, 520 Lafayette Road or e-mail to: [nathan.cooley@state.mn.us](mailto:nathan.cooley@state.mn.us).

Sincerely,

A handwritten signature in cursive script that reads "Nathan Brooks Cooley".

Nathan Brooks Cooley  
Rule Coordinator  
SSTS, Land Treatment, and Rules Section  
Municipal Division

NBC:jab

Enclosure